

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(03/16/2005 - 03/18/2005 Session)

NUMBER AND STYLE

NATURE OF CASE

04-1890

ACLU v. Mote  
(Titus)

CONSTITUTIONAL LAW. Challenge to state university's policy of restricting speech by members of the public in open areas on campus.

04-1579

Peery v. Carolina Care Plan  
(Norton)

ERISA. Challenge to summary judgment based on preemption of state statutory provisions.

04-1845

Directv Incorporated v. Nicholas  
(Boyle)

ELECTRONIC COMMUNICATION PRIVACY ACT. Whether Congress provided a civil remedy for unauthorized interception of a scrambled or encrypted satellite video signal.

PANEL I  
COURTROOM ONE  
Courthouse Room 412 (Red Carpet)  
9:30 a.m.

WEDNESDAY, MARCH 16, 2005

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(03/16/2005 - 03/18/2005 Session)

NUMBER AND STYLE

NATURE OF CASE

04-2030

Steven Leavett v. Support Terminal  
(Messitte)

DISCOVERY. Challenge to adverse party's retention and use of materials during the pendency of a claim of attorney-client privilege and work product doctrine.

04-6469

Young v. Nickols  
(Anderson)

CIVIL. Does Heck v. Humphrey, 512 U.S. 477,487 (1994), bar relief under 42 U.S.C. Section 1983 (2000) for an extradition violation.

04-1416

Mudd v. Barnhart  
(Conrad)

SOCIAL SECURITY. Whether time spent by counsel representing plaintiff before the agency is properly includable in attorney's fee award pursuant to 42 U.S.C. Section 406(b); other issues.

04-1176

Perdue Farms v. Natl Union Fire PA  
(Legg)

INSURANCE. Whether liability for damage due to misappropriation of trade secret fell within Advertising Liability coverage.

PANEL II  
COURTROOM TWO  
Courthouse Room 233 (Green Carpet)  
9:30 a.m.

WEDNESDAY, MARCH 16, 2005

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(03/16/2005 - 03/18/2005 Session)

NUMBER AND STYLE

NATURE OF CASE

04-1528 (L), 04-1902

Babb v. DEA  
(Herlong)

FORFEITURE. Challenge to denial of interest and attorney's fees against the government.

04-1895

Bd of Supv Campbell v. Royal  
(Moon)

BANKRUPTCY. Whether local government can condemn debtor's property without obtaining relief from the automatic stay.

04-7731

Atuar v. US  
(Faber)

HABEAS CORPUS. Whether the use at extradition hearing of evidence obtained by torture denied petitioner due process and violated the law of nations.

04-2002

White Tail Park v. Stroube  
(Williams)

CONSTITUTIONAL LAW. Challenge to dismissal on grounds of mootness and lack of standing in action attacking the constitutionality of statute licensing juvenile nudist camps.

PANEL III  
COURTROOM THREE  
Courthouse Room 225 (Tan Carpet)  
9:30 a.m.

WEDNESDAY, MARCH 16, 2005

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
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NUMBER AND STYLE

NATURE OF CASE

02-6891

US v. Owen  
(Voorhees)

CRIMINAL LAW & PROCEDURE. Whether it was improper to  
arraign appellant without defense counsel.

03-7204

US v. Mauney  
(Osteen)

HABEAS. Did Mauney's counsel render ineffective assistance  
on appeal by failing to raise intervening Supreme Court law  
established in Neder v. United States, 527 U.S. 1,25  
(1999) .

04-1692

Morgan v. Barnhart, Comm  
(Herlong)

SOCIAL SECURITY. Did the district court err in affirming  
the ALJ's order denying Morgan's SSI and DIB benefits.  
15 mins. per side

04-1743 (L), 04-2083

Maryland Stadium v. Ellerbe Becket Inc  
(Garbis)

SOVEREIGN IMMUNITY. Whether Stadium Authority is an arm of  
the state entitled to Eleventh Amendment immunity.

PANEL IV  
COURTROOM FOUR  
Courthouse Room 414-D (Tweed Carpet)  
9:30 a.m.

WEDNESDAY, MARCH 16, 2005

UNITED STATES COURT OF APPEALS  
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NUMBER AND STYLE

NATURE OF CASE

04-1433 (L), 04-1434

Lowry's Reports Inc v. Legg Mason Wood  
(Quarles)

COPYRIGHT INFRINGEMENT. Challenge to jury verdict arising  
out of photocopying subscription newsletter; other issues.

04-1490

Continental Casualty v. Penn National Ins  
(Houck)

CIVIL. Whether Penn National provided sole coverage for  
settlement proceeds paid in state tort claim.

04-1838 (L), 04-1859

MRRM, PA v. Richardson Patrick  
(Blatt)

ATTORNEY FEES. Challenge to fee allocations in class action  
settlement.

PANEL V  
COURTROOM FIVE  
Courtroom of Chief Judge Spencer  
9:30 a.m.

WEDNESDAY, MARCH 16, 2005

REVD 3/10/05

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(03/16/2005 - 03/18/2005 Session)

NUMBER AND STYLE

NATURE OF CASE

04-1965

Jordan v. Western Distributing  
(Blake)

TORTS. Challenge to dismissal of claims of respondeat superior liability and negligent hiring and retention in action arising out of traffic incident involving two of corporate defendant's employees.

04-1869

Westmoreland Coal Co v. Barker

BLACK LUNG BENEFITS. Whether ALJ's finding of complicated pneumoconiosis and invocation of 20 C.F.R. Section 718.304 presumption of total disability due to pneumoconiosis is supported by substantial evidence.  
15 mins. per side

04-1863

Welch v. US  
(Blake)

FEDERAL TORTS CLAIMS ACT. Whether false imprisonment claim is barred by "due care exception."

PANEL I  
COURTROOM ONE  
Courthouse Room 412 (Red Carpet)  
9:30 a.m.

THURSDAY, MARCH 17, 2005

UNITED STATES COURT OF APPEALS  
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NUMBER AND STYLE

04-1967  
Lontz v. Tharp  
(Stamp)

04-21  
Moody v. Polk  
(Bullock)

NATURE OF CASE

FEDERAL JURISDICTION. Whether removal was proper based on federal question jurisdiction; whether wrongful discharge claim based on union activity was preempted by the NLRA.

HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

PANEL II  
COURTROOM TWO  
Courthouse Room 233 (Green Carpet)  
9:30 a.m.

THURSDAY, MARCH 17, 2005

REVD 3/15/05

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(03/16/2005 - 03/18/2005 Session)

NUMBER AND STYLE

NATURE OF CASE

03-1501

In re: Leland Bryson  
(Herlong)

CRIMINAL LAW & PROCEDURE. Whether doctrine of cumulative finality applies to give this Court jurisdiction over Bryson's premature notice of appeal; if so, propriety of determination of Bryson's interest in forfeited property.

04-4388 (L), 04-4417

US v. James S. Robinson  
(Howard)

CRIMINAL. Challenge to competency determination and transfer of juvenile to adult status; challenge to downward departure based on diminished capacity in a case involving violent conduct.

04-1971 (L), 04-2113

NLRB v. High Point Construct

LABOR. Whether the Board abused its discretion in not issuing a Gissel bargaining order after employer's violation of the Act.

PANEL III  
COURTROOM THREE  
Courthouse Room 225 (Tan Carpet)  
9:30 a.m.

THURSDAY, MARCH 17, 2005



UNITED STATES COURT OF APPEALS  
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NUMBER AND STYLE

NATURE OF CASE

04-1710

Chase Brexton Health v. State of MD  
(Garbis)

MEDICAID. Whether the district court properly abstained in  
action challenging state's methodology used to set rates  
for services by health centers.

04-4673

In Re: Grand Jury  
(Lee)

GRAND JURY. Challenge to denial of motion to quash.

04-4410 (L), 04-4411

In Re: Grand Jury  
(Lee)

CRIMINAL. Challenge to denial of motion to quash grand  
jury subpoena barred on attorney client privilege.

PANEL IV  
COURTROOM FOUR  
Courthouse Room 414-D (Tweed Carpet)  
9:30 a.m.

THURSDAY, MARCH 17, 2005

REVD 3/11/05

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, Virginia  
(03/16/2005 - 03/18/2005 Session)

NUMBER AND STYLE

NATURE OF CASE

04-2058  
EEOC v. Navy Federal Credit  
(Lee)

TITLE VII. Challenge to summary judgment in action alleging retaliation for opposing discrimination against subordinate; whether suit is barred by laches due to six-year delay.

04-1946 (L), 04-1962  
Resource Bankshares v. St. Paul Mercury Ins  
(Morgan)

INSURANCE. Whether policy's "advertising injury" provision covers policyholder's alleged violation of Telephone Consumer Protection Act.

04-2293  
Tankovits v. Del Suppo, Inc.  
(Stamp)

INSURANCE. Whether Errors and Omissions Extension in policy covers action for negligence and breach of contract in pool construction.

PANEL V  
COURTROOM FIVE  
Courtroom of Chief Judge Spencer  
9:30 a.m.

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NUMBER AND STYLE

NATURE OF CASE

04-1270 (L), 04-1386  
Provident Life & Acc v. Cohen  
(Blake)

ERISA. Challenge to denial of long term disability benefits  
and counterclaim for restitution.

03-4817  
US v. Johnny Craig Harp  
(Osteen)

SENTENCING GUIDELINES. Whether the career offender sentence  
constitutes plain error in light of Blakely v. Washington.

PANEL I  
COURTROOM ONE  
Courthouse Room 412 (Red Carpet)  
8:30 a.m.

FRIDAY, MARCH 18, 2005

REVD 3/10/05

UNITED STATES COURT OF APPEALS  
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NUMBER AND STYLE

NATURE OF CASE

03-1289

In Re: Computer Lear  
(Hilton)

BANKRUPTCY. Whether the bankruptcy court properly resolved issues with respect to fee applications submitted by the bankruptcy trustee and counsel for the trustee.

04-4553

US v. Gwendolyn Hedgepeth  
(Hudson)

CRIMINAL LAW & PROCEDURE. Whether district court erred in admitting testimony that Hedgepeth was involved in the "kickback" business; other issues.

04-4182

US v. Terrance L. Smalls  
(Blatt)

CRIMINAL LAW & PROCEDURE. Whether the district court erroneously admitted an incriminating statement made by the appellant; other issues.

03-4843 (L), 04-4122 04-4128 04-4163

US v. Lionel Staine  
(Howard)

CRIMINAL SENTENCING. Whether application of USSG Section 2A4.1(c) murder cross reference is plain error under Blakely v. Washington; other issues.

PANEL II  
COURTROOM TWO  
Courthouse Room 233 (Green Carpet)  
8:30 a.m.

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NUMBER AND STYLE

NATURE OF CASE

04-4188  
US v. Adel Habib Iskander  
(Davis)

CRIMINAL. Challenge to the exclusion of expert testimony;  
sufficiency of the evidence of tax evasion; sentencing  
issues.

04-4752 (L), 04-4876 04-4877  
US v. Gosselin World Wide  
(Lee)

ANTITRUST. Challenge to dismissal of alleged antitrust  
violation due retroactive immunity provisions of the  
Shipping Act.

04-4624

US v. Victor Catala  
(Friedman)

SENTENCING GUIDELINES. Whether it was error to award  
reductions under USSG Section 3E1.1 and USSG Section  
2D1.1(b) (6) and to impose sentence under 21 U.S.C. Section  
841(b) (1) (C) .

PANEL III  
COURTROOM THREE  
Courthouse Room 225 (Tan Carpet)  
8:30 a.m.

FRIDAY, MARCH 18, 2005

REVD 3/17/05

UNITED STATES COURT OF APPEALS  
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NUMBER AND STYLE

NATURE OF CASE

04-4887  
US v. George R. Blick  
(Hilton)

CRIMINAL. Whether waiver of appellate rights in plea agreement precludes claim that plea was involuntary or sentence was invalid in light of United States v. Booker, \_\_U.S.\_\_, 2005 WL 50108 (U.S. Jan. 12, 2005).

PANEL IV  
COURTROOM FOUR  
Courthouse Room 414-D (Tweed Carpet)  
8:30 a.m.

FRIDAY, MARCH 18, 2005

REVD 3/10/05